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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/664,537

09/19/2003

Richard D. Dettinger

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EXAMINER

LY, CHEYNE D

ART UNIT

PAPER NUMBER

2168

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/664,537	<b>Applicant(s)</b> DETTINGER ET AL.	
	<b>Examiner</b> CHEYNE D. LY	<b>Art Unit</b> 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 20-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 15, 2020 has been entered.
2. Applicant's arguments filed April 15, 2010 have been fully considered but they are not persuasive because the cited art describes the new limitation as cited below. For example, Evens describes the "the healthcare provide first selects an item to annotate... the annotate window 170 of FIG. 7 displays a blood test result 172. As before, the healthcare provider annotates the blood test result document 172 using an input device, such as a keyboard, a mouse or an electronic pen. For example, the provider uses a keyboard to enter text "Out of Range" 174 and an electronic pen to circle 176 the out of range result." The selected item has been reasonably interpreted as the required "selected data object" and the entered text of "Out of Range" has been reasonably interpreted as the required "metadata describing the selected data object."
3. Claims 1-5 and 20-28 are examined on the merits.

### **CLAIM REJECTIONS - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**6. Claims 1-4 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 5,924,074A) taken with Palomo et al. (US 2003/0120527A1) (Palomo hereafter).**

#### **MOTIVATION TO COMBINE**

7. Evans describes an improve an improvement via the EMR system which finishes healthcare providers with an intuitive, easy-to-use,...interface that enables them to capture and analyze patient data quickly and efficiently (column 2, lines 28-31). While, Palomo describes improving the Evans patent (page 1, [0012], and page 2, [0020] for improving the efficiency of a business (page 3, [0039]). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Palomo to improve the patent of Evans improving the efficiency of a business.

#### **PRIOR ART**

8. In regard to claims 1, Evans describes a method of exchanging information via annotation, comprising:

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Providing an interface allowing a first user to view query results including one or more data objects the first user is authorized to view; select a data object from the query results, and create an annotation with a scope encompassing the selected data object, whereby the annotation annotates the selected data object with metadata describing the selected data object (column 7, lines 5-39);

Providing an interface element allowing the first user to expand the scope of the annotation to encompass one or more data objects... whereby the annotation annotates the selected data object and the one or more data objects (column 8, lines 19-60, especially, “the patients data structure 210 includes pointers to data structures having data within a patient record captured by the point of care system 100 and incorporated from external sources” (expand the scope...)).

9. However, Evans does not describe the limitation of “the first user is not authorized to view.”

10. Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art improve the patent of Evans, as describe by Palomo, to have the first user as not being authorized to view the one or more objects as defined by each access level. The motivation would be to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

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11. In regard to claim 2, Evans in view of Palomo describes an interface element allowing the first user to expand the scope of the annotation comprises providing an interface element allowing the user to associate the annotation with a primary key for a row of data containing the selected data object (column 8, lines 19-28, especially, “PID”). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

12. In regard to claim 3, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes the limitation of “select one or more rows...” and “create annotation for selected one or more row...” (Figure 5, especially, “Progress Notes” Table). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

13. In regard to claim 4, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes the limitation of “storing the annotation with a reference to the model entity” (column 8, lines 29-60, and Figure 13 which models the data stored the cited database). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

14. In regard to claims 20-24, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes “an instance value” (Figure 7, especially, TEST

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values). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

**15. Claims 5 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 5,924,074A) taken with Palomo et al. (US 2003/0120527A1) (Palomo hereafter) as applied to claims 1-4 and 20-24 above, and further in view of Clark et al. (US 5974389A).**

#### **MOTIVATION TO COMBINE**

16. Evans describes an improve an improvement via the EMR system which finishes healthcare providers with an intuitive, easy-to-use,...interface that enables them to capture and analyze patient data quickly and efficiently (column 2, lines 28-31). While, Palomo describes improving the Evans patent (page 1, [0012], and page 2, [0020]) and Clark patent (page 1, [0012], and page 2, [0019]) for improving the efficiency of a business (page 3, [0039]). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Palomo to improve the patent of Evens and Clark for improving the efficiency of a business.

#### **PRIOR ART**

17. In regard to claims 5, 25, and 27, Evans and Palomo describe the claimed invention as cited above. However, Evans and Palomo do not describe “displaying, to the second user, an indication of the annotation.” Clark describes “displaying, to the second user, an indication of the annotation” (column 9, lines 32-45, especially, “When a second caregiver takes over a

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writable copy from another caregiver, system 100 displays a message asking the second caregiver...” Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evens and Clark with the displaying to the second user (a second caregiver) of Clark for improving the efficiency of a business.

18. In regard to claim 26, Evans, Palomo, in view of Clark describes the invention as cite above. Further, Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a receptionist...may only have access to certain narrow segments of the same file for scheduling purposes....a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, Paloma, and Clark with the additional disclosure of Palomo for improving the efficiency of a business by providing the second query results that do not contain the selected data object described by the annotation such as the query by the receptionist.

19. In regard to claim 28, Evans, Palomo, in view of Clark describes the invention as cite above. Further, Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a receptionist...may only have access to certain narrow segments of the same file for scheduling purposes....a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, Paloma, and Clark with the additional disclosure of Palomo for improving the efficiency of a business by providing the



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second query results that do not contain the selected data object described by the annotation such as the query by the medical technologist.

### **CONCLUSION**

20. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.
21. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

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23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

/Cheyne D Ly/

Primary Examiner, Art Unit 2168